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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,813	04/20/2004	Rolf Bruck	E-80502	7276
24131	7590	07/19/2006	EXAMINER	
LERNER GREENBERG STEMER LLP			PHAM, MINH CHAU THI	
P O BOX 2480			ART UNIT	PAPER NUMBER
HOLLYWOOD, FL 33022-2480			1724	

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/828,813

Applicant(s)

BRUCK ET AL.

Examiner

Minh-Chau T. Pham

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 3-24 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-24 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

***Double Patenting***

Claims 1, 3-24 and 30 of this application conflict with claims 1-33 of Application No. 10/823,986. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3-24 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breuer et al (5,322,672), in view of Wickland (6,355,078 B1), and further in view of Li (6,413,589 B1).

Breuer et al discloses a honeycomb filter for a diesel internal combustion engine having layers of metal foil sheets forming a stack with a plurality of channels through which a fluid can flow, wherein the metal sheets have a thickness of about 0.03 to 0.12 mm or about 0.03 to 0.06 mm (Abstract, col. 2, lines 33-35 and lines 58-60), and the covering layers are brazed (col. 3, lines 62-65). Claims 1, 3-24 and 30 differ from the disclosure of Breuer et al in that the filter has one covering layer formed from at least partially porous material. Wickland discloses a filter assembly through which a fluid can flow comprising at least one filter layer (52), at least one covering layer (46, 48) formed

Art Unit: 1724

from at least partially porous material (60, 62), and at least one covering layer (46, 48) having at least one boundary region forming a sleeve surrounding the filter layer and captively holding at least one filter layer inside at least one covering layer (see Fig. 3), and the covering layer being connected to itself by technical joining in at least one boundary region (Fig. 3, col. 3, lines 10-19 and lines 31-42). Wickland also discloses a process for producing a filter assembly through which a fluid can flow comprising the steps of providing at least one covering layer (46, 48) having at least one boundary region formed with porosity (60, 62), placing one filter layer (52) on the at least one covering layer, forming a sleeve with the at least one covering layer surrounding the at least one filter layer, and forming a connection by technical joining at the at least one boundary region, captively fixing the at least filter layer within the at least one covering layer (Fig. 3, col. 3, lines 10-19 and lines 31-42). Li discloses a method of coating a ceramic honeycomb and bonding ceramic onto a substrate which is elongated reinforced fibers or sheets (col. 12, line 26) for practical uses over 630 degrees C (Abstract, col. 1, lines 60-62, col. 5, lines 49-52, col. 6, lines 31-42). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to adopt the covering layer as taught by Wickland and coating of filter substrate material as taught by Li in order to provide an improved filter apparatus which can be used in a diesel internal combustion engine to effectively purify or clean an exhaust gas stream from the engine.

As to the numerical requirements of claims 3-5 and 7-16, the specification contains no disclosure of either the critical nature of these requirements or any

Art Unit: 1724

unexpected results arising therefrom, and as such these requirements would be arbitrary and therefore obvious. Applicant **must** show that these requirements are critical. *In re Woodruff, 16 USPQ 2d 1934.*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Minh-Chau Pham**  
**Patent Examiner**  
**Art Unit: 1724**  
**July 14, 2006**